CHIN WAI LEONG & ORS v. PP

COURT OF APPEAL, PUTRAJAYA
KAMALUDIN MD SAID JCA
RAVINTHRAN PARAMAGURU JCA
AHMAD NASFY YASIN JCA
[JUDICIAL REVIEW APPLICATION NO: W-06-9-11-2019]
17 FEBRUARY 2021

JURISDICTION: *Courts – Inherent jurisdiction – Application to review decision by appeal panel – Application for second review – Invocation of inherent power – Whether only allowed in very limited and exceptional circumstances – Whether application revolved around issues already canvassed by first panel – Whether there was complaint against constitution of first review panel – Whether second review ought to be disallowed to prevent injustice*

The first to fourth applicants, the directors of the fifth applicant, faced a total of 224 charges for money laundering in the Sessions Court under s. 4(1)(a) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 ('AMLATFA'). The applicants also faced a charge of receiving deposit from the public without a licence under s. 6(4) of the Banking and Financial Institutions Act 1989 ('BAFIA'). The applicants were acquitted of all charges in the Sessions Court and the prosecution's appeal to the High Court against the acquittals was dismissed. The prosecution's further appeal was allowed by the appeal panel of the Court of Appeal ('COA') and thus the applicants were all found guilty of all the AMLATFA and BAFIA charges. Whilst pending sentencing, the applicants raised the issue of the accuracy of the number of charges under the AMLATFA. The prosecution agreed that some of the charges included non-existing offences and offered to withdraw 70 of the charges. The appeal panel, ruling that it was not *functus officio*, varied the earlier convictions and reduced the number of convictions to 154 charges, taking into account the 70 charges that the prosecution offered to withdraw. Hence, the first to fourth applicants were sentenced to five years' imprisonment for the BAFIA offence and three years' imprisonment for the AMLATFA offence and the imprisonment terms were ordered to run consecutively. The punishment imposed on the fifth applicant under the BAFIA charge was a fine of RM2 million. The applicants subsequently moved the COA for a review of the decision of the appeal panel. After a full hearing, the first review panel concluded that the applicants were attempting to re-open and re-examine the decision of the appeal panel on the merits and failed to demonstrate exceptional circumstances for reviewing the convictions. Hence, the applications for review were dismissed. The applicants, in this review application, applied to set aside the convictions and sentences recorded against them by the appeal panel under r. 105 of the Rules of the Court of Appeal 1994 ('RCA').

Held (dismissing application)
Per Ravinthran Paramaguru JCA delivering the judgment of the court:

(1) The words in r. 105 of the RCA, which is identical to r. 137 of the Rules of the Federal Court 1995, do not refer to a 'review' jurisdiction. Generally, inherent power can be invoked to 'review' a decision of the court as a last resort. The invocation of the inherent power to prevent injustice is subject to very limited and exceptional circumstances. As the exercise of the residual power to re-open a case will naturally come into conflict with the principle of finality in court decisions, the said power should be used sparingly and cautiously. (paras 12-15)

(2) The power to re-open the decision of the appeal panel had already been exercised by the first review panel under its inherent power. All the main grounds for review were argued before the first review panel and, even if some of the grounds were not argued, or the same issues had been narrowed down, they constituted issues that belonged to the review hearing. Therefore, the court would be going over the same grounds and material as the first review panel. A fine balance must be struck between the principle of finality of court decisions and the need to prevent injustice. Hence, once the court heard a review application under r. 105 and there was no complaint about the constitution of the review panel, the parties should not come for another review, be it a review upon review or a second review or by whatever name it is called, on the very same grounds that were canvassed earlier. (paras 16-18 & 24)

Case(s) referred to:
Adorna Properties Sdn Bhd v. Kobchai Sosothikul [2005] 1 CLJ 565 FC ***(refd)***
Ahmadi Yahya v. PP [2012] 7 CLJ 113 CA ***(refd)***
Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd [2008] 6 CLJ 1 FC ***(refd)***
Badan Peguam Malaysia v. Kerajaan Malaysia [2009] 1 CLJ 833 FC ***(refd)***
Chu Tak Fai v. PP [2006] 4 CLJ 931 FC ***(refd)***
Dato' See Teow Chuan & Ors v. Ooi Woon Chee & Ors And Another Appeal [2013] 4 CLJ 901 FC ***(refd)***
Dato' Seri Anwar Ibrahim v. PP (No 2) [2017] 1 CLJ 489 FC ***(refd)***
Dato' Seri Anwar Ibrahim v. PP [2010] 7 CLJ 397 FC ***(refd)***
Datuk Seri Anwar Ibrahim v. Government Of Malaysia And Anor [2020] MLRAU 361 ***(refd)***
Dee Bee Yoke & Anor v. Nick Abu Dasuki Hj Abu Hassan & Anor [2017] 1 CLJ 18 CA ***(refd)***
Fong Kong Meng & Anor v. PP [2019] 9 CLJ 301 FC ***(refd)***
Kho Jabing v. PP [2016] SGCA 216 ***(refd)***
Rupa Ashok Hurra v. Ashok Hurra And Another (2002) 4 SCC 388 ***(refd)***
Taylor & Anor v. Lawrence And Anor [2002] 2 All ER 353 ***(refd)***
TR Sandah Tabau & Ors v. Director Of Forest, Sarawak & Anor And Other Applications [2019] 10 CLJ 436 FC ***(refd)***

Legislation referred to:

Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001, s. 4(1)(a)
Banking and Financial Institutions Act 1989, s. 6(4)
Rules of the Court of Appeal 1994, r. 105
Rules of the Federal Court 1995, r. 137

Constitution of India [Ind], arts. 137, 142(1)

For the appellants - Muhammad Shafee Abdullah, Wee Yeong Kang & Zahria Eleena Ahmad Redza; M/s Shafee & Co
For the respondent - Umar Saifuddin Jaafar, Mohd Dusuki Mokhtar, Faizah Mohd Salleh & Alvin Ong; DPPs

Reported by S Barathi

JUDGMENT

Ravinthran Paramaguru JCA:

Introduction

[1] The applicants in this review application have applied to set aside the convictions and sentences recorded against them by another panel of this court (the appeal panel) on 12 December 2017 and 21 February 2018 under r. 105 of the Rules of the Court of Appeal 1994. This is the second review application before this court to set aside the very same decision of the appeal panel. The earlier application to review was heard and dismissed on 12 April 2019 by the Court of Appeal (the first review panel). Before we address the merit of this second review application, we shall briefly set out the background facts and the grounds of the instant application.

Background Facts

[2] The first to fourth applicants are the directors of the fifth applicant. The first to fourth applicants faced a total of 224 charges for money laundering in the Sessions Court under s. 4(1)(a) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 ("AMLATFA"). All the applicants also faced a charge of receiving deposit from the public without a licence under s. 6(4) of the Banking and Financial Institutions Act 1989 ("BAFIA"). The applicants were acquitted of all charges in the Sessions Court. The prosecution appealed against the acquittals. On 20 August 2017, the High Court dismissed all the appeals.

[3] The prosecution appealed against the dismissal of the appeals to the Court of Appeal. On 12 December 2017, the appeal panel pronounced that the appeal was allowed and that all the applicants were guilty of all the AMLATFA and BAFIA charges. The sentencing was adjourned to 4 January 2018. The matter was further adjourned to 11 January 2018 when the issue of the accuracy of the number of charges under AMLATFA was raised by

counsel for applicants. By the time of the further adjourned date of 21 February 2018, the prosecution agreed that some of the charges included non-existing offences and offered to withdraw 70 of the said charges. The reason was that the cheques in question were not within the time period of the predicate offences. The appeal panel ruled that it was not *functus officio* and varied the earlier convictions it made on the 224 charges. It reduced the number of convictions to the 154 charges after taking into account the 70 charges that the prosecution offered to withdraw. In the result, the first to fourth applicants were convicted of 46, 28, 68 and 12 charges under AMLATFA respectively. The first to fourth applicants were sentenced to five years' imprisonment for the BAFIA offence and three years' imprisonment for the AMLATFA offence. The imprisonment terms under BAFIA and AMLATFA were ordered to run consecutively with the effect that the applicants have to a total of eight years imprisonment. The punishment imposed on the fifth applicant under the BAFIA charge was a fine of RM2 million. It is relevant to mention here that the appeal panel did not deliver written grounds of decision.

[4] The applicants moved the Court of Appeal for a review of the decision of the appeal panel *via* four notices of motion as said court was the court of last resort. The first review panel considered the inherent powers of the court under r. 105 of the Rules of the Court of Appeal 1994 and the Court of Appeal cases of *Dee Bee Yoke & Anor v. Nick Abu Dasuki Hj Abu Hassan & Anor* [2017] 1 CLJ 18; [2016] 12 MLJ 39 and *Ahmadi Yahya v. PP* [2012] 7 CLJ 113 on the issue whether the Court of Appeal has the inherent jurisdiction to review its own decision in cases where it is the apex court. The first review panel answered the question in the affirmative but held on the authority of *Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd* [2008] 6 CLJ 1 (FC), *Badan Peguam Malaysia v. Kerajaan Malaysia* [2009] 1 CLJ 833 (FC); and *Kho Jabing v. PP* [2016] SGCA 216 that the court is not concerned with the substantial merits or correctness of the decision in question. After a full hearing, the first review panel concluded that the applicants were attempting to re-open and re-examine the decision of the appeal panel on the merits and failed to demonstrate that there were exceptional circumstances for reviewing the convictions. The applications for review were dismissed. The review panel delivered a 58-page written grounds of judgment for refusing the review applications.

Instant Review Application

[5] Before us, counsel for applicants applied to nullify the orders of the appeal panel on the following principal grounds:

(i) the appeal panel decision was tainted by breach of natural justice as there was illegality which tainted the judicial process as 70 charges were defective;

(ii) the conduct of the prosecution in withdrawing the 70 charges after convictions were pronounced usurped the jurisdiction of the Court of Appeal;

(iii) the withdrawal of the 70 charges caused judicial afterthought and tainted the proceedings because once conviction was pronounced, it cannot be reviewed at the sentencing stage;

(iv) several procedural errors affected the jurisdiction of the appeal panel after conviction was pronounced;

(v) the appeal panel did not deliver its grounds of decision;

(f) the review panel failed to address the subject matter of illegality in respect of the conduct of the appeal panel in the post-conviction stage before sentences were meted out;

Our Decision

[6] We shall first briefly direct ourselves on the review jurisdiction. Rule 105 of the Rules of the Court of Appeal 1994 is identical to r. 137 of the Rules of the Federal Court 1995. In *Dato' Seri Anwar Ibrahim v. PP* [2010] 7 CLJ 397, Zulkefli Ahmad Makinudin FCJ held that r. 137 cannot be construed as conferring a "new jurisdiction" to hear an application to review but nonetheless proceeded to hold that under the said rule, the Federal Court has the limited inherent power or inherent jurisdiction in order to maintain its character as a court of justice to hear any application or make any order to prevent injustice or an abuse of the court's process. However, in the latter case of *Dato' See Teow Chuan & Ors v. Ooi Woon Chee & Ors And Another Appeal* [2013] 4 CLJ 901, Arifin Zakaria CJ recognised the inherent power of the Federal Court to review its decision under r. 137 but cautioned that this power can only be exercised in special or exceptional circumstances.

[7] In the well-known case of *Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd* (*supra*), Abdul Hamid Mohamad CJ accepted that in very limited and exceptional cases, the Federal Court has inherent jurisdiction to review its own decision. His Lordship set out the circumstances as follows:

> [7] First, where there is a lack of quorum as in *Chia Yan Tek & Anor v. Ng Swee Kiat & Anor* [2001] 4 CLJ 61 where two of the presiding judges had retired at the time when the judgment was delivered and only one judge remaining who was capable of exercising his functions as a judge of that court.
>
> [8] Secondly, where the decision had been obtained by fraud or suppression of material evidence as in *MGG Pillai v. Tan Sri Dato' Vincent Tan Chee Yioun* [2002] 3 CLJ 577.
>
> [9] Thirdly, where there is a clear infringement of statutory law. In this respect, a clear example would be where the court has mistakenly applied a repealed law. But, where it is a matter of interpretation or application

of the law, it is in my view not a suitable case for a review. The judgment of this court is *Adorna Properties Sdn. Bhd. v. Kobchai Sosothikul* [2005] 1 CLJ 565 does throw some light in this respect.

[10] Fourthly, where application for review has not been heard by this court but, through no fault of the applicant, an order was inadvertently made as if he has been heard as in *Raja Prithwi Chand Lal Choudhury v. Sukhraj Rai And Others* AIR (1941).

[11] Fifthly, where bias has been established as in *Taylor & Anor v. Lawrence & Anor* [2002] 2 All ER 353.

[12] Of course, there may be other circumstances. But, the review jurisdiction should never be allowed to be used to question a finding of this court in an appeal on question of facts.

[8] In a similar vein, Zaki Tun Azmi PCA (later CJ) in the same case outlined the exceptional circumstances as follows:

(a) That there was a lack of quorum eg, the court was not duly constituted as two of the three presiding judges had retired. (*Chia Yan Tek & Anor v. Ng Swee Kiat & Anor* [2001] 4 CLJ 61).

(b) The applicant had been denied the right to have his appeal heard on merits by the appellate court. (*Megat Najmuddin bin Dato Seri (Dr) Megat Khas v. Bank Bumiputra (M) Bhd* [2002] 1 CLJ 645).

(c) Where the decision had been obtained by fraud or suppression of material evidence. (*MGG Pillai v. Tan Sri Dato' Vincent Tan Chee Yioun* [2002] 3 CLJ 577).

(d) Where the court making the decision was not properly constituted, was illegal or was lacking jurisdiction, but the lack of jurisdiction is not confined to the standing of the quorum that rendered the impugned decision. (*Allied Capital Sdn Bhd v. Mohd Latiff bin Shah Mohd And Another Application* [2004] 4 CLJ 350).

(e) Clear infringement of the law. (*Adorna Properties Sdn Bhd v. Kobchai Sosothikul* [2005] 1 CLJ 565).

(f) It does not apply where the findings of this court is questioned, whether in law or on the facts (since these are matters of opinion which this court may disagree with its earlier panel). (*Chan Yock Cher @ Chan Yock Kher v. Chan Teong Peng* [2005] 4 CLJ 29).

(g) Where an applicant under r. 137 has not been heard by this court and yet through no fault of his, an order was inadvertently made as if he had been heard. (*Raja Prithwi Chand v. Sukhraj Rai* [AIR] 1941).

(h) Where bias had been established. (*Taylor & Anor v. Lawrence & Anor* [2002] 2 All ER 353).

(i) Where it is demonstrated that the integrity of its earlier decision had been critically undermined e.g. where the process had been corrupted and a wrong result might have been arrived at. (*Re Uddin* [2005] 3 All ER 550).

(j) Where the Federal Court allows an appeal which should have been consequentially dismissed because it accepted the concurrent findings of the High Court and Court of Appeal. (*Joceline Tan Poh Choo & Ors v. V. Muthusamy* [2007] 6 CLJ 1; [2007] 6 MLJ 485).

Objection Of The Public Prosecutor

[9] The learned Deputy Public Prosecutor's threshold argument is that the applicants are attempting to launch a "review upon a review" and that nothing in the law countenances this course of action. It was also submitted that the application does not fall within the limited grounds for review and that in any event, the first review panel heard the review application.

Our Decision

[10] For avoidance of doubt, we shall firstly hold based on r. 105 of the Rules of the Court of Appeal 1994 and the authorities cited by the first review panel that this court has the inherent power to review its own decisions where it is the apex court in exceptional circumstances in order to prevent miscarriage of justice or real injustice. We have made reference to the exceptional circumstances earlier. In fact, the learned Deputy Public Prosecutor has not taken issue with this proposition. He has also cited the same eminent authorities that discussed the power of the apex court to review its own decision.

[11] To our mind, the overarching issue in the instant application is not the existence of the power of the court to review its own decision but whether a second review application can be launched on the same grounds as the earlier review application which failed.

[12] We shall start with wordings of r. 105 of the Rules of the Court of Appeal 1994 which is identical to r. 137 of the Rules of the Federal Court 1995. It reads as follows:

Inherent powers of the Court

For the removal of doubt, it is declared that nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to hear any application or to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court.

[13] It must be noted that the words of the provision do not refer to a "review" jurisdiction. Zaki Tun Azmi PCA (later CJ) in *Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd* (*supra*) noted that r. 137 starts with the words "For the removal of doubts ...". For that reason, His Lordship said as follows:

It is therefore clear that this rule does not actually confer the jurisdiction to hear any application or to make any order to prevent injustice or abuse of the process of the court. It is merely a reminder that this court has that inherent jurisdiction.

[14] However, as we noted earlier, it is generally accepted that inherent power can be invoked to "review" a decision of the court of last resort. But the invocation of the inherent power to prevent injustice is subject to very limited and exceptional circumstances. There is good reason for the limitation placed on the inherent power to re-open a case. In *Taylor & Anor v. Lawrence And Anor* [2002] 2 All ER 353 (cited by our Federal Court in *Chu Tak Fai v. PP* [2006] 4 CLJ 931, the English Court of Appeal presided by Lord Woolf CJ said as follows:

> The residual jurisdiction to reopen appeals was linked to a discretion which enabled the Court of Appeal to confine its use to the cases in which it was appropriate for the jurisdiction to be exercised. There was a tension between a court having such a residual jurisdiction and the need to have finality in litigation, so that it was necessary to have a procedure which would ensure that proceedings would only be reopened when there was a real requirement for that to happen.

[15] As the exercise of the residual power to re-open a case will naturally come into conflict with the principle of finality in court decisions as noted in *Taylor & Anor v. Lawrence And Anor* (*supra*), it cannot be gainsaid that the said power should be used sparingly and cautiously. In *Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd* (*supra*), Zaki Tun Azmi PCA (later CJ) cautioned as follows:

> However, that wide discretion will not be used liberally but only sparingly, in exceptional cases and on a case to case basis where a significant injustice had probably occurred and there was no alternative effective remedy. The court must exercise strong control over such application. It must be satisfied that it is within exceptional category. Rule 137 cannot be construed as conferring unlimited power to review its earlier decision for whatever purpose. The court must not be too eager to invoke the rule.

[16] The power to re-open decision of the appeal panel was exercised by first review panel under its inherent power. Counsel for the applicant argued that the instant review application is not a "review of the review" or in other words a review of the decision of the first review panel but a review of the appeal panel decision. Even if that were the case, the question arises whether this court would be invoking the inherent power of the court very liberally by hearing another "review" of the appeal panel decision when the first attempt had failed. We note that all the main grounds for review of the applicants that we summarised in para. [5] were argued before the first review panel. Even if some of the grounds were not argued or the same issues had been narrowed, they constitute issues that belonged to the said review hearing. It would be otherwise if an argument had been raised that the first review panel was not properly constituted or that its decision was tainted by bias. In the instant case, the first review panel granted a full hearing on the merits in respect of the grounds for review canvassed by the applicants. However, it declined to review the decision of the appeal panel. The

applicants may disagree with its legal reasoning but that does not entitled them to seek review after review on the same grounds until a desired outcome is obtained.

[17] Counsel for applicants submitted that the subject of illegality pertaining to the court proceedings in the post-conviction stage before the appeal panel was not addressed by the first review panel. We note that the withdrawal of the 70 charges at the post-conviction stage was mentioned in the judgment of the first review panel. Be that as it may, the relevant question here is not whether the first review panel made the correct decision to decline review of the decision of the appeal panel. The question is whether this court should again hear another review application to re-open the decision of the appeal panel on the same grounds. In our view, a second application to review the decision of the appeal panel for the same reasons cannot be supported on principle or on authority. Since there was already one review application, a decision to re-open this case on the same grounds may well lead to another review by either the applicants or the respondent. Thus, as feared in *Asean Security Paper Mills Sdn Bhd v. Mitsui Sumitomo Insurance (Malaysia) Bhd* (*supra*) by the Federal Court, in such a circumstance, there will be no end to litigation. In *Adorna Properties Sdn Bhd v. Kobchai Sosothikul* [2005] 1 CLJ 565, as well such a fear was expressed by the Federal Court in the following passage:

> Secondly, there is much force to be given to the contention that there should be finality to any litigation. The main judgment was handed down by this Court which is the apex court of this country. If the application of r. 137 is made liberally the likely consequence would be chaos to our system of judicial hierarchy. There would then be nothing to prevent any aggrieved litigant from challenging any decision of this court on the ground of 'injustice' *vide* r. 137. And if he succeeds in his application there is also nothing to bar the other party from making his own application to overturn such success. In short, there will be no end to the matter. We do not think that was the intention of the legislature when promulgating the said rule.

[18] In the above-mentioned case, a second application to review under r. 137 was made on a different ground. The first application was made on the ground of coram failure whereas the second application was made on the ground "to prevent injustice". The second application was dismissed but it must be mentioned here that the Federal Court was mindful that counsel for respondent conceded that under r. 137 successive applications are permissible provided grave injustice could be shown. However, in the instant case, the grounds of the instant application is the same as the first application. Therefore, the court would be going over the same grounds and material as the first review panel. A fine balance between the principle of finality of court decisions and the need to prevent injustice must be struck. And the surest way of distorting that fine balance disproportionally in favour of

exercising the residual power to correct a judgment would be by allowing review after review on the same grounds. In our view, if this court were to do that, the principle of finality of court decisions would be impaired and no final judgment of a court of last resort would remain final.

[19] Before we conclude, we shall make reference to the Indian Supreme Court case of *Rupa Ashok Hurra v. Ashok Hurra And Another* (2002) 4 SCC 388 which was cited by counsel for applicant in support of this application. It is a landmark case in Indian jurisprudence because for the first time the Supreme Court entertained a second petition to re-open a case after an earlier review petition had failed. However, this landmark Indian case must be read in the context of the Indian Constitution and the practice of their courts.

[20] The power of the Supreme Court to review its own judgment is specifically provided under art. 137 of the Indian Constitution. Therefore, the Supreme Court need not exercise inherent power or residual to correct its decisions by way of review. In the *Rupa Ashok Hurra's* case (*supra*), the first application for review did not succeed. Until then, that was the final avenue for a losing party. But the Supreme Court held that in the "rarest of rare" cases, relief can still be granted in cases of gross miscarriage of justice. It did not call the petition to re-open the case a second review petition. Instead, it called such petition a "curative petition".

[21] The Supreme Court did not invoke art. 137 for creating the curative petition. Instead, it relied on art. 142 which gives very wide powers to the Supreme Court "to do complete justice" between the parties. Article 142(1) of the Indian Constitution reads as follows:

> 142. Enforcement of decrees and orders of Supreme Court and unless as to discovery, etc
>
> (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or orders so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

[22] However, the Supreme Court, set out very stringent conditions for such a "curative" petition to be heard. The reason, in the words of Quadri J is "so that floodgates are not opened for filing a second review petition as a matter of course in the guise of a curative petition under inherent power". It must also be noted that the Supreme Court approached the application on the basis that a second review petition is not maintainable under art. 137. Banerjee J who wrote the supporting judgment said as follows:

> Needless to record here, however, that review jurisdiction stand foisted upon this Court in terms of the provisions of the Constitution, as noticed hereinbefore and it is also well-settled that a second review petition cannot be said to be maintainable.

[23] That is the reason for the creation of the "curative petition". Of course, art. 142 has no equivalent in our law. Whilst we think that in some cases, the constitution of the earlier review panel can be called into question on grounds of quorum failure or bias, we are not convinced that there is juridical basis in our law to invoke the *Rupa Ashok Hurra*'s case to hear the instant application which is on the same grounds as the earlier review application. We are also mindful that the *Rupa Ashok Hurra*'s case was cited in a number of local cases (see *Dato' Seri Anwar Ibrahim v. PP (No 2)* [2017] 1 CLJ 489; *Fong Kong Meng & Anor v. PP* [2019] 9 CLJ 301; *TR Sandah Tabau & Ors v. Director Of Forest, Sarawak & Anor And Other Applications* [2019] 10 CLJ 436; and *Datuk Seri Anwar Ibrahim v. Government Of Malaysia And Anor* [2020] MLRAU 361). However, the case was cited to illustrate the importance of the residual power of the final court to correct its own judgment. It was not cited as authority to support a second application to review a decision on the same grounds as an earlier review application.

[24] In conclusion, it is our view that once the court hears a review application under r. 105 and there is no complaint about the constitution of the review panel, parties should not come for another review, be it a review upon review or a second review or by whatever name it is called, on the very same grounds that were canvassed earlier. In the premises, we shall unanimously dismissed the application for review in encl. 1.